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Elizabeth Ziegler Young,
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE: § **Case No. 18-43569-MXM-11**
HMSW CPA, P.L.L.C., §
Reorganized Debtors. § **Hearing: May 13, 2020**
§ **1:30 p.m.**

United States Trustee's Objection to Application for Final Decree
[docket no. 140]

TO THE HONORABLE MARK X. MULLIN,
UNITED STATES BANKRUPTCY JUDGE:

The United States Trustee for Region 6 files his Objection to Application for Final Decree (the “Motion,” docket no. 140). The United States Trustee would show:

Summary

The Court should not enter a final decree in this case because Debtors are delinquent in 1) payment of United States Trustee fees in the estimated amount of \$2,932.81 and 2) filing their quarterly operating reports. By failing to file quarterly operating reports and pay United States Trustee fees, Debtors have not complied with the terms of the confirmed plan and the estate is not fully administered. The Court should not enter a final decree until Debtors files the delinquent operating reports and come current in the payment of United States Trustee fees.

Jurisdiction

This Court has subject matter jurisdiction under 28 U.S.C. sec. 1334, 28 U.S.C. sec. 157(a), and the standing order of reference. A motion for a final decree is a core matter. 28 U.S.C. § 157(b)(2)(A),(O).

Factual and Procedural History

1. On September 10, 2018, HMSW CPA P.L.L.C. filed a voluntary petition for relief under chapter 11.
2. On December 24, 2018, KSW CPA P.C. filed a voluntary petition for relief under chapter 11.
3. On January 15, 2019, the court entered an order jointly administering these cases (“Debtors”). [docket no. 63]
4. On August 29, 2019, the Court entered the order (“Confirmation Order”) [docket no. 126] confirming the First Amended Combined Joint Plan of Liquidation (including Second Amended Plan of Liquidation for HMSW) and Disclosure Statement, as Modified (Including Modifications Made as a Condition of Confirmation) Filed by the Debtors (the “Plan,”) [docket no. 125].
5. Section 12.7 of the Plan provides as follows:

12.7 Payment of Statutory Fees.

The Debtors shall be responsible for the timely payment of fees incurred pursuant to 28 U.S.C. § 1930[a][6] until the clerk of the Bankruptcy Court closes the case. The Debtors shall file with the Bankruptcy Court and serve upon the U.S. Trustee a quarterly financial report for each quarter [or portion thereof] that the case remains open in a format prescribed by the U.S. Trustee.

6. Paragraph 29 of the Confirmation Order provides as follows:

29. **Payment of Fees** (11 U.S.C. § 1129(a)(12)). As provided in the Plan, all fees payable pursuant to section 1930(a) of title 28 of the United States Code, as determined by the Court, have been paid or shall be paid for each quarter (including any fraction thereof) until the cases are converted, dismissed or closed, whichever occurs first, thus satisfying the requirements of section 1129(a)(12) of the Bankruptcy Code.

7. Debtors owe a combined estimated amount of \$2,932.81 in United States Trustee fees through the first quarter of 2020. Of this amount, \$979.73 is delinquent. Debtors will also owe United States Trustees fees for at least the second quarter of 2020.

8. The United States Trustee fee amounts are estimated because Debtors have failed to file corresponding quarterly operating reports.

9. Debtors owe the following quarterly operating reports:

a. Debtor HMSW CPA P.L.L.C. owes a quarterly report for the first quarter of 2020 which is due April 20, 2020;

b. Debtor KSW CPA P.C. owes quarterly reports for the third and fourth quarters of 2019, which are delinquent, and the first quarter of 2020, which is due April 20, 2020.

Legal Analysis

10. Section 350(a) of the Bankruptcy Code provides that “[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case.” 11 U.S.C. § 350(a). Bankruptcy Rule 3022 implements section 350(a) and states, “[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter final decree closing the case.” Fed. Rule. Bankr. Pro. 3022.

11. Because Debtors have failed to pay their United States Trustee fees and file quarterly reports, the estate is not fully administered. The Court should not enter a final decree in this case until

Debtors come current on its United States Trustee fees and file their past due quarterly reports.

Relief Requested

WHEREFORE, the United States Trustee requests that the Court deny the motion for final decree and grant to the United States Trustee such other and further relief as is just and proper.

DATED: April 7, 2020

Respectfully submitted,

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/s/ Elizabeth Ziegler Young
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Certificate of Service

There undersigned hereby certifies that on April 7, 2020, a copy of the foregoing pleading was served on the parties listed below via First Class United States Mail and/or ECF.

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